

Application Serial No. 10/675,088
Reply to office action of September 6, 2006

NOV 28 2006 PATENT
Docket: CU-3336

REMARKS/ARGUMENTS

On page 2 of the office action, the Examiner acknowledged receipt of the applicant's papers submitted under 35 U.S.C. §119, wherein the applicant claimed the filing date of Korean patent application number 2003-42057, which was filed on June 26, 2003. The applicant is therefore entitled to a foreign filing priority date of June 26, 2003.

The drawings were objected to as not showing features recited in claims 14 and 17. In response to the Examiner's drawing objection, claims 14 and 16 have been cancelled thus obviating the need to file corrected drawings. Claim 22 has also been cancelled.

The pending claims were provisionally rejected on the grounds of non-statutory double patenting. The Examiner does not consider the pending claims to be patentably distinct from the claims in co-pending applications 10/851,245 and 10/674,187.

In response to the double-patenting rejection, the applicant is providing herewith, a terminal disclaimer with regard to both of the co-pending applications cited by the Examiner.

Claims 1, 3-7, 10-13, 15-16 and 18-20 were rejected under 35 U.S.C. §102(b) as being anticipated by Weaver et al. Importantly, claim 2 was not rejected under the Weaver reference.

Claims 1-7, 10-13, 15-16 and 19 were rejected under 35 U.S.C. §102(e) as being anticipated by pre-grant publication number 2004/0216263 by Best et al.

Claims 14-17 and 21-22 were rejected under 35 U.S.C. §103(a).

In response to the claim rejections made under the Weaver reference, claim 1 has been amended to include the limitations of claim 2 and claim 2 has been cancelled.

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Claims 1 and 3-22 are therefore in condition for allowance over Weaver as well as the Best reference for the following reasons.

As set forth above, dependent claim 2 was not rejected under the Weaver reference. Thus, the amendment of claim 1 to include the limitations of claim 2 renders claim 1 and all of the remaining claims that depend from claim 1, allowable over the Weaver reference.

Referring now to the Best reference, i.e., pre-grant publication 2004/0216263, the Examiner's rejection of the claims under 35 U.S.C. §102(e) was improper because the subject matter in the Best reference upon which the Examiner relies, was not filed by Best until July 17, 2003, which is admittedly prior to the applicant's U.S. filing date but not prior to the applicant's foreign priority date. Put another way, the applicant's foreign priority filing date of June 26, 2003 is prior to the July 17, 2003 effective filing date of the '263 Best reference. The '263 Best publication therefore cannot be cited against the pending claims.

In addition to not being a valid §102 reference because of its filing date, none of the parent applications of the '263 publication anticipate the pending claims either.

A review of U.S. application serial number 10/249,113, including its figures, shows that it does not disclose the subject matter recited in the pending claims. Nor does U.S. application serial number 09/849,143 disclose the subject matter recited in the pending claims. It therefore appears that the earliest effective date for the subject matter disclosed by the Best reference is July 17, 2003, i.e., after that applicant's foreign priority date.

Since the amendment to claim 1 avoids the Weaver reference and since the Best

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references is not a valid reference under §102(e), the amendment to claim 1 avoids
Weaver and renders all of the dependent claims allowable as well.

Reconsideration of the pending claims is therefore respectfully requested.

Sincerely,

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